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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/518,965

08/01/2005

Charles Yang

1321-14 PCT US

2996

28249 7590 01/26/2009  
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EXAMINER

LEE, DORIS L

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

01/26/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                    |  |
|------------------------------|--------------------------------------|------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/518,965 | <b>Applicant(s)</b><br>YANG ET AL. |  |
|                              | <b>Examiner</b><br>Doris L. Lee      | <b>Art Unit</b><br>1796            |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 25, 2008 has been entered.
2. All outstanding objections and rejections, except for those maintained below, are withdrawn in light of applicant's amendment filed on December 22, 2008.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.

### ***Claim Rejections - 35 USC § 103***

4. **Claims 1-3, 5-6, 8-11, 15-18 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wright (US 3,639,096)** in view of **Fearing (US 4,335,178)**.

The rejection is adequately set forth in paragraph 6 of the Office Action mailed on September 25, 2008 and is incorporated here by reference.

5. **Claims 4 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wright (US 3,639,096)** in view of **Fearing (US 4,335,178)** and **Weil et al (US 3,746,572)**.

The rejection is adequately set forth in paragraph 7 of the Office Action mailed on September 25, 2008 and is incorporated here by reference.

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6. **Claims 7, 12 and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wright (US 3,639,096)** in view of **Fearing (US 4,335,178)**, **Wu et al "Comparison of Different Organophosphorus Flame Retardants Agent for Cotton", Polymer Degradation and Stability 92 (2007) 363-369** and **Fesman et al (EP 0 138 204 A1)**.

The rejection is adequately set forth in paragraph 8 of the Office Action mailed on September 25, 2008 and is incorporated here by reference.

7. **Claim 13** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Wright (US 3,639,096)** in view of **Fearing (US 4,335,178)**, **Weil et al (US 3,746,572)**, **Wu et al "Comparison of Different Organophosphorus Flame Retardants Agent for Cotton", Polymer Degradation and Stability 92 (2007) 363-369** and **Fesman et al (EP 0 138 204 A1)**.

The rejection is adequately set forth in paragraph 9 of the Office Action mailed on September 25, 2008 and is incorporated here by reference.

### ***Response to Arguments***

8. Applicant's arguments filed December 22, 2008 have been fully considered but they are not persuasive for the following reasons:

9. **Applicant's argument:** One of ordinary skill in the art would not add hydroxyl-functional phosphorus esters containing at least two phosphorus atoms of Fearing to the Wright formulation since doing so (according to the declaration of Stowell) would render Wright unsatisfactory for its intended purpose. Wright teaches away from the addition of anything that would not result in a composition that will impart wrinkle resistant properties.

**Examiner's response:** *Although Dr. Stowell declares (see the 37 CFR 1.132 Declaration filed 12/22/08) that the phosphorus composition of Fearing would destroy the wrinkle resistance properties of Wright, there is no data to support this allegation. The applicant speculates (see e.g. paragraphs 9-11 of the Declaration) that the introduction of Fearing's hydroxy-functional phosphorus ester containing at least two phosphorus atoms would (undesirably) crosslink with hydroxy groups present in Wright's cotton fabric rather than promote a different kind of crosslinking reaction between the melamine formaldehyde/DMDHEU combination (these ingredients are elucidated in Wright and the preceding Office Action) and the cotton fabric hydroxy groups. This, according to applicant, would destroy the invention of Wright and so the combination of Wright and Fearing is supposedly untenable. However, since the scope of the present claims is silent with respect to the desirability of excluding any ingredients that would potentially interfere with the crosslinking activity of the claimed ingredients with a cellulosic material, the applicant's argument is hardly convincing. Furthermore, even if applicant's crosslinking-based arguments were to be given some consideration, it is noted that applicant's have failed to set forth any reaction conditions under which any undesirable crosslinking reaction would supposedly occur when Wright and Fearing are combined. Also, the instant claims do not specify the amount of all the components (perhaps a relatively small amount of the phosphorus compound is needed compared to the wrinkle resistance imparting chemicals and thus the wrinkle resistance properties remain intact), nor do they indicate a specific level of wrinkle resistivity is necessary. Wright does not teach away from adding additional component, rather it is*

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*open to modification of other additives for providing desired special effects (col. 4, line 45).*

### **Conclusion**

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Doris L. Lee whose telephone number is (571)270-3872. The examiner can normally be reached on Monday - Thursday 7:30 am to 5 pm and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571)272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Doris L Lee/  
Examiner, Art Unit 1796

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/Vasu Jagannathan/

Supervisory Patent Examiner, Art Unit 1796